

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 7299

BILL NUMBER: HB 1791

NOTE PREPARED: Jan 17, 2003

BILL AMENDED:

SUBJECT: Internet Cigarette Sales.

FIRST AUTHOR: Rep. Hasler

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State

Summary of Legislation: This bill provides that the state may bring suit against a person for violating the federal Jenkins Act. The bill requires a person who sells cigarettes by mail, telephone, or Internet order to notify the buyer that the buyer is responsible for unpaid state cigarette taxes. It provides a civil penalty for failure to notify a buyer that the buyer is responsible for unpaid cigarette taxes. The bill prohibits the sale of cigarettes or tobacco products to a person less than 18 years of age. The bill also requires a person who sells cigarettes or tobacco products by mail, telephone, or Internet order to verify the buyer's name, address, and date of birth. It provides a civil penalty for: (1) failing to verify the buyer's name, address, or date of birth; or (2) selling cigarettes or tobacco products to a person less than 18 years of age.

Effective Date: July 1, 2003.

Explanation of State Expenditures: *Attorney General:* This bill would allow the Department of State Revenue to bring suit against out-of-state cigarette merchants selling via the phone, the Internet, or through the mail if the merchant either does not comply with the federal Jenkins Act, or does not follow specific guidelines relating to the sale of cigarettes in Indiana. The bill also provides that Alcohol and Tobacco Commission may bring suit against merchants that do not follow specified procedures to ensure that sales are not made to persons under the age of 18. Since the Department of State Revenue and the Alcohol and Tobacco Commission would be represented by the Attorney General in the event of suit, the bill could increase the Attorney General's workload and costs. The impact on the Attorney General will depend on its specific action; however; it is estimated that the provision could require the hiring of two additional employees.

This bill does not contain an appropriation. The funds and resources required above could be supplied through a variety of sources, including the following: (1) Existing staff and resources not currently being used to capacity; (2) Existing staff and resources currently being used in another program; (3) Authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) Funds that,

otherwise, would be reverted; or (5) New appropriations. As on January 13, 2003 the Attorney General reported 56 vacancies. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

The Department of State Revenue and the Alcohol and Tobacco Commission are expected to be able to absorb any additional costs incurred as a result of this bill.

Background Information: The federal Jenkins Act requires out-of-state sellers of tobacco products that ship to Indiana to file with the Department of State Revenue. The Act also requires these sellers to send copies of every cigarette sales invoice to the Department monthly. The invoice must state the name and address of the person to whom the shipment was made, the brand, and the quantity shipped.

Explanation of State Revenues: *Cigarette Tax Revenue:* The bill would require merchants who sell cigarettes through direct mail or the Internet to include a notice on each package that advises purchasers that they are responsible for remitting the state's Cigarette Tax to the Department of State Revenue. The impact of this provision on Cigarette Tax collections is unknown.

Cigarette Tax revenue is deposited in the state General Fund (83.97%), the Mental Health Fund (0.94%), the Cigarette Tax Fund (6.60%), and the Pension Relief Fund (8.49%).

Penalty Provisions: The bill provides merchants who violate the bill's provisions related to reporting sales to the Department of Revenue or who violate the provisions related to verifying that a sale is made to a person over 18 are subject to civil penalties ranging from \$1,000 to \$10,000 depending upon the frequency in which the provisions are violated.

The bill provides that the Attorney General may recover attorney's fees from persons failing to comply with the Jenkins Act.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Attorney General's Office; Department of State Revenue; Alcohol and Tobacco Commission.

Local Agencies Affected:

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